

MT LEGISLATIVE HISTORY

Chapter 400 1991

Bill H 383 S _____

Original bill & hist. C

H. Committee on Natural Resources

S. Committee on Natural Resources

Hearing Date(s) Feb 04 ✓ C

Hearing Date(s) Mar 13 ✓ C

Feb 06 ✓ C

Mar 23 ✓ C

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Date Out Feb 07 ✓ C

Mar 23 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

HOUSE FINAL STATUS

HB 385

2/12	2ND READING PASSED	92	1
2/14	3RD READING PASSED	97	2
	TRANSMITTED TO SENATE		
2/15	FIRST READING		
2/15	REFERRED TO NATURAL RESOURCES		
3/20	HEARING		
3/21	COMMITTEE REPORT—BILL CONCURRED		
3/23	2ND READING CONCURRED	47	0
3/25	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
4/02	SIGNED BY SPEAKER		
4/02	SIGNED BY PRESIDENT		
4/02	TRANSMITTED TO GOVERNOR		
4/06	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 366		

EFFECTIVE DATE: 4/06/91

HB 383 INTRODUCED BY RANEY, ET AL
HAZARDOUS WASTE FUELS REGULATION

1/24	INTRODUCED		
1/24	REFERRED TO NATURAL RESOURCES		
1/25	FIRST READING		
1/25	FISCAL NOTE REQUESTED		
1/30	FISCAL NOTE RECEIVED		
1/30	FISCAL NOTE PRINTED		
2/04	HEARING		
2/07	COMMITTEE REPORT—BILL PASSED		
2/09	2ND READING PASSED	70	24
2/12	3RD READING PASSED	75	22
	TRANSMITTED TO SENATE		
2/13	FIRST READING		
2/13	REFERRED TO NATURAL RESOURCES		
3/13	HEARING		
3/23	COMMITTEE REPORT—BILL CONCURRED		
3/27	2ND READING CONCURRED	30	11
3/28	3RD READING CONCURRED	38	10
	RETURNED TO HOUSE		
4/03	SIGNED BY SPEAKER		
4/03	SIGNED BY PRESIDENT		
4/04	TRANSMITTED TO GOVERNOR		
4/09	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 400		

EFFECTIVE DATE: 4/09/91

HB 384 INTRODUCED BY REAM, ET AL
ESTABLISH OFFICIAL REVENUE ESTIMATE FOR THE 1992-1993 BIENNIUM
BY REQUEST OF REVENUE OVERSIGHT COMMITTEE

1/24	INTRODUCED
1/24	REFERRED TO TAXATION
1/25	FIRST READING
	DIED IN COMMITTEE

HB 385 INTRODUCED BY DRISCOLL
REALLOCATE PENALTY AND INTEREST INCOME FROM PAST-DUE
UNEMPLOYMENT INSURANCE CONTRIBUTIONS
BY REQUEST OF DEPARTMENT OF LABOR & INDUSTRY

1/24	INTRODUCED
1/24	REFERRED TO LABOR & EMPLOYMENT RELATIONS
1/25	FIRST READING
1/25	FISCAL NOTE REQUESTED
1/29	FISCAL NOTE RECEIVED

The bill is a technical one, Raney said, and creates mechanisms for solving problems. The bill is not a Fallon County bill but rather, a bill for Montana, Raney added. "We have a responsibility to site in the right places," Raney told the committee.

HEARING ON HB 383

Presentation and Opening Statement by Sponsor:

Representative Bob Raney, District 82, told the committee that there were presently no rules in place for storing hazardous waste. HB 383 would set up rules for storage and the Department of Health and Environmental Sciences would provide rules for the regulation of this waste, Raney said.

Proponents' Testimony:

Jim Jensen, Director of the Montana Environmental Information Center, testified in support of HB 383. Cement kilns may be the best method of destruction of hazardous waste, Jensen said.

Opponents' Testimony:

There were no opponents' to HB 383.

Questions From Committee Members:

Senator Bianchi asked Don Vidrine, DHES, if solid waste could be burned and still meet Montana's air quality standards?

Vidrine explained that air quality standards would be more stringent regarding hazardous waste.

Charles Homer, Environmental Specialist, Air Quality Bureau, Montana Department of Health and Environmental Sciences, told the committee kiln at Trident was currently in compliance with air quality standards.

Closing by Sponsor:

Representative Raney offered no further comments on HB 383.

HEARING ON HB 607

Presentation and Opening Statement by Sponsor:

Representative Raney, District 22, stated that HB 607 was the next step following HB 383 and would address laws regarding the burning of hazardous waste. Raney noted that even the strictest of the burning laws still did not apply to hazardous waste. The bill was drafted at the request of DHES, Raney said.

DATE

3-13-91

COMMITTEE ON

Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Dick Menger	Fallon County	377		✓
Marion Hansen	Fallon Co. Development Co.	377		✓
Kristin Page	MontPIRG	377	✓	
"	MontPIRG	858	✓	
Doreen Almy	Fallon Co. Dev. Corp	377		✓
Michelle LeFurge	Fallon Co.	377		✓
Nancy Schillinger	Fallon Co. Dev. Corp	377		✓
Kynette Hintze	Richland County	377		✓
Charles Homere	MT Dept. of Health	607/383	✓	
Charles Madler	Fallon County	377		✓
Tara Breitbach	NPRC	891/377	✓	
Kay Bickman	YUCC	858/891/377	✓	
Ann Vickman	MDHES	383		
Linda Lee	Montana Audubon	891/377	✓	
Linda Lee	MAudubon	858	✓	
Christine Kaufman	MEIC	858 377 891 383	✓	
Ronnie J. Hanson	MSCN	443-5341	✓	
Nancy Matheson	AERO	46240	✓	
Brian Matheson	MEIC	858 377 891 383		

ROLL CALL
Natural Resources
COMMITTEE

DATE 3-13-91

52

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
Senator Anderson	✓		
Senator Bengtson	✓		
Senator Bianchi	✓		
Senator Doherty	✓		
Senator Grosfield	✓		
Senator Hockett	✓		
Senator Keating	✓		
Senator Kennedy	✓		
Senator Tveit	✓		
Vice Chairman, Weeding	✓		
Chairman Stimatz	✓		

Each day attach to minutes.

SENATE NATURAL RESOURCES COMMITTEE

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losing operation for everyone. This may have been the intent of the bill. There was testimony that one state that has done something like this in the past has not had the problems of shutting down the whole forest. He argued that the bill is not as hazardous as you might think, and it may be beneficial to almost everyone down the road. The voluntary way of dealing with things is much better than eventually getting to the fighting point of few where it is one way or the other. Then you choose sides, and whomever wins really doesn't win.

Senator Keating closed by stating that the last sentence of the statement of intent says, "in developing these practices the department shall consult with wildlife officials, federal, state, private organizations...etc." Now that means somebody has to take some action. Somebody in the department is spending all their time reviewing and developing something to do with wildlife. This costs money, and it will cost the department money. There might be 2 or 3 people doing it, and there will be reams of paper, public testimony, and expenses involved with this thing. So you are spending taxpayer dollars to do something that probably is not necessary. If we do have a voluntary program, and people have a unique situation and they want to protect some kind of wildlife, then there are all kinds of private organizations that have programs and books on how to provide habitats. He guaranteed if this is put in the law on what appears to be a voluntary basis, it will eventually become part of a mandatory system. That is exactly why the opponents that make their living in this business objected.

Senator Tveit said the language on Page 9 and 10, the word "shall" is in the bill, and voluntary is not "shall". The department will play an important role.

Recommendation and Vote: The question was called for. The motion to Do Not Concur in HB-351 passed 6 to 5, and was recorded as a roll call vote. Senators Bianchi, Doherty, Hockett, Kennedy, and Weeding voted against the motion. Senator Keating will carry the Adverse Committee Report.

EXECUTIVE ACTION ON HB-383

Motion: Senator Grosfield moved to Concur in HB-383.

NR032391.SM1

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Discussion: Senator Grosfield said that he did not feel that this bill did a lot.

Senator Kennedy said that this bill addresses cement factories that want to burn hazardous waste more efficiently with more BTUs. There is some concern about the air quality if this is done, so it is just as good that the department write regulations that will head off a lot of unfounded opinion out there. People are concerned that black smoke is equated to cancer.

Senator Tveit asked about Page 5, line 19, "may be more restrictive than federal regulations". He does not have a problem writing regulations, but we do this in other areas, and the stricter than federal cause a lot of problems. We can become to restrictive. We can go too far with regulations.

Amendments, Discussion: Senator Tveit made a substitute motion to move to strike Page 5, line 19 from the bill.

Discussion: Senator Keating said we would have to strike line 18 as well. Senator Grosfield added that while they were at it to strike lines 16 & 17 as well.

Senator Weeding jokingly said nothing would be left. Senator Grosfield said that line 14 & 15 are the guts of the bill. So if 19 is struck, the lines 17 & 18 should be, too.

Senator Doherty disagreed. There may not be federal regulations.

Senator Grosfield said that didn't matter because on line 14, it says "may adopt rules", so it does not matter if there are federal rules or not.

Senator Doherty asked to speak to the body of Senator Tveit's motion that the state should never say anything about what the federal government ever does. He always thought it was a good thing that Montanans could say to the federal government that they wanted do it stricter than the feds. Montana has historically maintained this position that we can do with our water rights what we want and what we are going to do. We can have stricter standards if we want. There is a good basis for this, and it is good public policy. What is good across the country, may not be sensitive enough for Montana. The SO2 discussion was that we wanted stricter standards because we grow wheat in Montana, and there is some evidence that lower SO2 standard than federal standard would protect our wheat farmers. This is historically accurate that we can adopt stricter standards depending on our particular circumstances. He resisted

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the motion. Senator Doherty said that Senator Keating said initially that you get the rules and regulations out there, and figure what the particular problems in Montana are to forestall any problems.

Senator Hockett said he agreed with Senator Doherty. This talks about burning hazardous waste, and he is not too excited about Montana having some kind of "mecca" for people who want to burn hazardous waste. He also resisted the motion.

Senator Keating said line 14 & 15 says "they may adopt rules and performance standards for industrial furnaces and boilers that burn hazardous waste." Now that is all inclusive. That is as broad as you can get. There are no qualifications at all. If you keep line 16-19, then you begin to qualify the ability to make rules. They may adopt federal standards if there are some, or you may be more restrictive, so now you are fooling around with the thing. The plain language is go make some safe standards. It is up to the DHES to determine whether the standards are fair and protective and not too restrictive. He did not see anything wrong with the motion to delete 16-19.

Chairman Stimatz asked Senator Tveit if added line 16-18 to his motion? Senator Tveit said no. Senator Tveit added that line 14 says "they may adopt rules and performance standards for industrial furnaces and boilers that burn hazardous waste." The rules on line 16, go right back to line 14, "may be adopted if there are no federal regulations" You will not adopt rules if there are federal regulations. They tie together don't they? He was asking for the right for the state to adopt rules if the language is left in, and if the feds don't have regulations. He just doesn't want them more restrictive than federal regulations. The state can still write rules, but the rules on line 16 are the same as the rules on line 14. But the state can't adopt rules if the feds have regulations in place. He asked if how he interpreted this was right or wrong?

Paul Sihler, Legislative Council staff (EQC) said that he would read lines 14-16 as giving broad authority to adopt rules without any constraints. Lines 17, "may be adopted if there are no federal regulations", really doesn't add much. If you were to take out line 19, it really doesn't matter if you take 17 & 18 in there or not.

Senator Kennedy asked that can't the state adopt rules and laws that are more restrictive than federal? Mr. Sihler said there is a restriction in the hazardous waste laws that the state can not adopt hazardous waste laws more stringent than the federal

NR032391.SM1

SENATE NATURAL RESOURCES COMMITTEE

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standards. He suspected that is why this is in this bill. Senator Kennedy said in the pharmacy business, the State Board of Pharmacy can adopt rules more stringent than the federal, but not less stringent. Mr. Sihler said generally with federal laws, in order for the state to retain primacy, the state must adopt laws that are equivalent to the federal standards. In a case of hazardous waste laws, the Legislature some years ago, decided that they did not want the state adopting more stringent laws than the federal standards. There is something in the statute that prohibits the DHES from adopting any regulations and hazardous waste statutes that are more restrictive than federal standards. He thought it was 75-10, the hazardous waste statute. Senator Kennedy asked if this law could be passed to supersede that law? Mr. Sihler said if this bill is passed as drafted it would be an exception in the law where hazardous waste furnaces and boilers burn hazardous waste that the DHES would be able to adopt standards and regulations that are stricter than the federal requirements. Senator Kennedy said he opposed the motion because there might be a case where we might need to establish stricter rules. If we don't need to do it, then we won't do it.

Senator Weeding was not sure of the motive was, but he suspected that language was used because the state air quality standards are higher than the federal by 50%. Are we down to the .02 or .03, and Billings comes in regularly and asks for a waiver for the refineries. We do have a state air pollution standard that is stricter than the feds.

Senator Keating said that is air quality not hazardous waste. Senator Bianchi added that air quality is what we are really talking about.

Senator Weeding said it is the fluent from the burning of those types of hazardous waste that is the concern. Chairman Stimatz added that you have to get rid of it somehow. By burning it you are throwing something through your stack.

Senator Grosfield asked the Legislative Staff if HB-383 and HB-607 are related? HB-607 is the air quality, and HB-383 is not air quality? Mr. Sihler said he was entirely correct. Senator Grosfield asked if HB-383 just referred to hazardous waste that will be burned from transportation to storage. Then HB-607 kicks in when the hazardous waste gets in the incinerator. Mr. Sihler said that he did not think that HB-383 dealt with transportation. It would address the handling and the hazardous waste when it goes from the site into the boiler. Then HB-607 would address from the incinerator out the stack. Senator Grosfield said that HB-383 is a storage and handling bill.

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SENATE NATURAL RESOURCES COMMITTEE

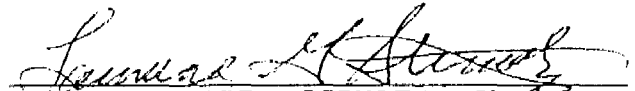
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Votes: Senator Keating called for the question. The substitute motion to delete Page 5, line 19 was defeated 3 to 8. Senator Grosfield's motion to Concur in HB-383 passed unanimously, and was recorded as a roll call vote. Senator Rea will carry this bill.

ADJOURNMENT

Adjournment At: 9:25 a.m.


LARRY STIMATZ, Chairman


JOYCE INCHAUSPE-CORSON, Secretary

LS/jic

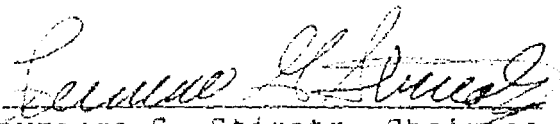
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 23, 1991

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill No. 383 (third reading copy -- blue), respectfully report that House Bill No. 383 be concurred in.

Signed:


Lawrence G. Stimatz, Chairman

191 3-23-91
Amd. Coord.

502 3-23 10:05
Sec. of Senate

630939SC.Sjl

bill does pass the liability would extend over even if they are regulated by the Federal government. REP. O'KEEFE asked if the result would be a switch from strict liability to negligent liability, or would the same type or class of liability occur. Mr. Fritz responded that the type or class of liability would not change. REP. O'KEEFE inquired if the liability will remain the same why is it necessary to change the language in the liability section of the bill. Mr. Fritz said without the new language, when the State regulatory authority is removed, the dam owners' are removed from negligent liability. Their liability status becomes unclear and is open for debate in the courts. The new wording ensures that the liability will remain the same as it is now after it switches over to Forest Service regulation.

REP. JIM SOUTHWORTH asked if water management will be affected by the passage of HB 382. Mr. Fritz replied no. The bill affects only the regulatory aspects of dam safety.

Closing by Sponsor:

REP. SWYSGOOD stated he was surprised that USFS opposed the bill. The regulations remain similar. The bill addresses concerns with liability. The number of high hazard dams that DNRC needs to review will be reduced. REP. SWYSGOOD recommended passage of HB 382.

HEARING ON HB 383

Presentation and Opening Statement by Sponsor:

REP. BOB RANEY, House District 82, Livingston, stated HB 383 addresses regulation of incinerators. EXHIBIT 3

Informational Testimony: Don Vidrine, Department of Health and Environmental Sciences, provided informational testimony on HB 383. EXHIBIT 4

Proponents' Testimony:

David Anderson, Jefferson County Commissioner, supported HB 383. EXHIBIT 5

Chris Kaufmann, Montana Environmental Information Center (MEIC), supported HB 383. She stated MEIC would like to see stricter air quality regulations than federal regulations. It is unclear what the federal regulations will be. They probably will be average standards. Average standards are not adequate to protect Montana. Wastes are currently being shipped to Montana incinerators. The Environmental Protection Agency, EPA, requires a recording procedure, called Toxic Release Inventory, for industries that generate toxic waste. The inventory states what types of wastes are generated in one's community. A huge loophole exists that allows for offsite shipment of wastes if it is going to be recycled which does not have to be reported. The

regulation states that burning wastes in a cement kiln in recycling. This loophole allows for companies not to report their wastes. The interest to ship wastes to Montana and to burn them will increase.

This large loophole is very serious and provides for some major discrepancies in the regulations. According to the regulations, burning solvents in an incinerator is called "treatment" and has to be reported. Burning wastes in a cement kiln is "recycling" and does not have to be reported. The result is Montanans will not know what is being shipped here. A company must report if they burn their wastes on site. They do not have to report the wastes if they ship the wastes off site. There may not be any opportunities to change the reporting requirements, but Montanans can regulate what happens at kilns and incinerators.

Opponents' Testimony: none

Questions From Committee Members:

REP. DAVE WANZENRIED asked what kinds of hazardous wastes have been burned in the Montana City kiln. Mr. Anderson replied that he understood that they were burning sludge from the Billings refinery and other substances such as cleaning solvents. He said he obtained some of the information from concerned employees.

REP. WANZENRIED inquired if HB 383 is enacted how will the substances be regulated if, currently, according to Ms. Kaufmann's testimony, it is not known how much and what type of substances are being burned now. Mr. Anderson replied he did not know. A great concern expressed by the people he talked with was the proximity of railroads and the possibility of derailments. He stated there is a potential for large amounts of dangerous wastes to come into Montana.

REP. VIVIAN BROOKE asked Mr. Vidrine how many industrial boilers are in the state. He replied it is difficult to estimate. Industrial boilers include cement kilns, boilers (like Colstrip), other furnaces and boilers in manufacturing places. He stated when the federal regulations go through, any boiler could burn these wastes, including boilers like those found in the Middle School. REP. BROOKE inquired if all the industrial boilers would be subjected to the permitting process because they have the potential to burn. Mr. Vidrine said no, only if they burn hazardous wastes. REP. MIKE FOSTER asked Mr. Anderson who he is representing. Mr. Anderson said he is representing his end of the county. The County Commission's philosophy does not endorse the importation of waste without careful consideration. REP. FOSTER inquired how often does incidence of incinerator particulates falling on school children occur. Mr. Anderson replied it has been going on for a while. REP. JIM SOUTHWORTH stated if sludge is being burned, it is a very serious matter as it is extremely hazardous. Mr. Anderson confirmed it was sludge and agreed that it is very serious. The employees of the plant are also concerned.

Closing by Sponsor:

REP. RANEY stated, after hearing the testimony, he is even more suspicious of the burning of hazardous wastes. There is a need to go beyond the regulation of cement furnaces. There are many unanswered questions. What temperatures are needed to safely and effectively burn the wastes? What is the new product being created? What are the byproducts? The Department needs the authority to regulate. The issues raised concerning recycling and disposal loopholes are scary and dangerous. The Livingston incinerators are examples of alarming and hazardous situations.

HEARING ON HB 414Presentation and Opening Statement by Sponsor:

REP. BEN COHEN, House District 3, Whitefish, stated a bill similar to HB 414 was killed in the Senate last session. HB 414 addresses events, such as train derailments, that have the potential to cause pollution. If the event causes damage and is on an EPA hazardous list then EPA will respond to it. If it is not on the EPA hazardous list, EPA can not respond to any clean up action. The bill provides a effective method to respond to spills in a timely manner and provides funding for the clean up effort. REP. COHEN walked through the bill, highlighting the main points of each section.

Proponents' Testimony:

Stan Bradshaw, Trout Unlimited, supported HB 414 stating the bill closes a gap in existing law that needs to be closed.

Dan Fraser, Department of Health and Environmental Sciences (DHES), supported HB 414. EXHIBIT 6

Jim Jensen, Montana Environmental Information Center, supported HB 414 for reasons previously stated.

Opponents' Testimony: noneQuestions From Committee Members:

REP. DAVID HOFFMAN asked if a fiscal note was requested. REP. COHEN responded yes, but it is not available yet. REP. HOFFMAN, referring to page 5, line 18, asked for clarification. Gail Kuntz, Committee Staff, responded she assumed that the meaning is for DHES to proceed with the collection of the civil penalties. She stated she would need to research it closer for verification. REP. HOFFMAN suggested it should be eliminated if it is not necessary. Stan Bradshaw stated that under the Water Pollution Control Act, there are fines and misdemeanors in civil penalties. The two are separate. They have to go to civil court to seek civil penalties and to the justice court to collect for misdemeanor fines. There are provisions in other part of the law

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE Feb 4, 1991

NAME	PRESENT	ABSENT	EXCUSED
REP. MARK O'KEEFE, VICE-CHAIRMAN	✓		
REP. BOB GILBERT	✓		
REP. BEN COHEN	✓		
REP. ORVAL ELLISON	✓		
REP. BOB REAM	✓		
REP. TOM NELSON	✓		
REP. VIVIAN BROOKE	✓		
REP. BEVERLY BARNHART	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. DAVID HOFFMAN	✓		
REP. DICK KNOX	✓		
REP. BRUCE MEASURE	✓		
REP. JIM SOUTHWORTH	✓		
REP. HOWARD TOOLE	✓		
REP. DAVE WANZENRIED	✓		
REP. BOB RANEY, CHAIRMAN	✓		

CS05NATRES.MAN

EXHIBIT 3
DATE 2/4/91
HB 383

Hazardous Waste Incinerators
HB 383
February 4, 1991
Bob Raney

Last fall we heard about the first proposal to import hazardous waste into Montana for the purpose of disposal.

More specifically, Montana's 2 cement manufacturers -Trident M.City have proposed to burn liquid wastes in their cement kilns. The wastes contain hazardous materials and are therefore classified as hazardous waste.

Why? the wastes are used as a fuel source, and they get paid for disposing them at the same time. Good for the bottom line.

It may well be good for the environment as well. Cement kilns burn much hotter than other furnaces. (2700 deg. F) Or it could be bad news (air pollution, concrete pollution, by product pollution). And it would certainly be bad news if not regulated to insure our health and environment are protected.

So, HB 383 - see bottom of page 5

Rules and performance standards for industrial furnaces and boilers that burn hazardous waste.

definitions are provided elsewhere in the law.

Not to be confused with solid waste - most law and rule as well as staff are in place for regulation of hazardous waste.

One cannot help but be suspicious of any facility that disposes of hazardous waste. Yet, we most likely cannot stop the activity from happening, and it may lead to a method of disposing of our own Montana hazardous waste.

Maybe you could ask the industry if they would consider assisting in setting up a Montana liquid hazardous waste disposal operation.

We may stand to environmentally gain by our loss of air quality.

At any rate, we must properly regulate - - and this proposed legislation help us do that. Either in the absence of the Feds, or more restrictive than the Feds.

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

DATE 2-7-91
HB 383



STAN STEPHENS, GOVERNOR

FAX #(406) 444-1499

STATE OF MONTANA

OFFICE 836 Front Street
LOCATION: Helena, Montana

MAILING Cogswell Building
ADDRESS: Helena, MT 59620

Solid and Hazardous Waste Bureau

February 4, 1991

DHES TESTIMONY ON HB 383

DHES has reviewed HB 383 and recognizes no problems in its implementation. This bill would allow the department to adopt regulations pertaining to the burning of hazardous waste in industrial furnaces and industrial boilers that are more stringent than federal regulations.

On December 31, 1990 the U.S. EPA administrator signed a set of regulations which will impose controls on the burning of hazardous waste in industrial boilers and furnaces similar to those now applicable to hazardous waste incinerators particularly as it pertains to permitting procedures and emission standards. To date these regulations have not been published in the Federal Register.

HB 383 would give the department flexibility in adapting the federal hazardous waste burning regulations to the specific needs of the state should it become evident that the federal regulations do not adequately protect human health and the environment. The authority to vary from the federal regulations would also be beneficial in areas where interpretation of the regulatory requirements is difficult because of terminology and language used.

Definition of Industrial Furnace (40 CFR 260.10)

Industrial furnace means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

- (1) Cement kilns
- (2) Lime kilns
- (3) Aggregate kilns
- (4) Phosphate kilns
- (5) Coke ovens
- (6) Blast furnaces
- (7) Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machine, roasters, and foundry furnaces)
- (8) Titanium dioxide chloride process oxidation reactors
- (9) Methane reforming furnaces
- (10) Pulping liquor recovery furnaces
- (11) Combustion devices used in the recovery of sulfur values from spent sulfuric acid
- (12) Halogen acid furnaces for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3%, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20% as-generated.
- (13) Such other devices as the Administrator may, after notice and comment, add to this list on the basis of one or more following factors:
 - (i) The design and use of the device primarily to accomplish recovery of material products;
 - (ii) The use of the device to burn or reduce raw materials to make a material product;
 - (iii) The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;
 - (iv) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;
 - (v) The use of the device in common industrial practice to produce a material product; and
 - (vi) Other factors, as appropriate.

Ex. 4
2-4-91
HB 383

Definition of Boiler (40 CFR 260.10, 1990)

Boiler means an enclosed device using controlled flame combustion and having the following characteristics:

- (1)(i) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and
- (1)(ii) The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and
- (1)(iii) While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and
- (1)(iv) The unit must export and utilize at least 75% of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or
- (2) The unit is one which the Regional Administrator has determined, on a case-by-case basis, to be a boiler, after considering the standards in 260.32.

JEFFERSON COUNTY COMMISSIONERS
COURTHOUSE, P.O. Box H
BOULDER, MT. 59632
(406) 225-4251

EXHIBIT 3
DATE 2/4/91
HB 383

COMMENTS IN SUPPORT OF
H.B. 383
04 FEBRUARY 91

HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES

THE HONORABLE BOB RANEY, CHAIRMAN

As indicated on page 1, line 18, there are currently two cement plants in the state that are awaiting interim permitting to dispose of hazardous waste by means of incineration. One of those plants is in my district, being located in north Jefferson County, roughly three miles southeast of Helena.

Less than one mile from the cement plant is an elementary school with approximately 180 students. Even though the school yard is located uphill from and generally upwind from the plant's kiln, it is not an uncommon occurrence for the children to come in from recess and have noticeable amounts of particulates on their clothing. Obviously, these same particulates are being breathed in by the students as well as residents in the area.

During times of air inversions, the emissions from this plant tend to collect and remain in the Helena valley for days at a time, thus exposing thousands of people to whatever chemicals and gases may be present in the emissions.

With the inevitable introduction of hazardous wastes into the local fuel chain, it should be mandatory that RIGID performance standards be implemented and strictly enforced to deal with the incineration of hazardous wastes. This should be done now, before these wastes start being disposed of in the state, rather than trying to legislate after the fact.

It would not be unreasonable to consider amending out the word "may" as found on page 5, lines 14 and 17, and replacing it with the word "shall" -- to leave no doubt in anyone's mind that the safety and protection of Montana's citizens and environment will have absolute preference over any and all of the continuing attempts to make Montana the nation's dump.

I urge a "DO PASS" recommendation on House Bill 383.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Natural Resources

COMMITTEE

BILL NO. HB 383

DATE 2-4-91

SPONSOR(S) Rep. Ramsey

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
DAVE ANDERSON	JEFFERSON Co. Commiss.	X	
DON VIDRINE	DHES		
Ryan Thorburn	"		
CHRIS KAUFMANN	WEIC	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Company (MPC) was intimately involved. REP. BROOKE asked why a double negative is used, referring to "eliminate disincentive". Mr. John Alke responded that there are three components to rate making: neutral, disincentives, and incentives. The Resolution says that disincentives should be eliminated and incentives should be adopted to encourage conservation. REP. KADAS added the wording is industry jargon.

Vote: Motion to adopt amendments carried unanimously.

Motion/Vote: REP. SOUTHWORTH MADE A SUBSTITUTE MOTION THAT HJR 8 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 382

Motion: REP. DAVID HOFFMAN MOVED HB 382 DO PASS.

Discussion: REP. MEASURE stated he was concerned about dissolving responsibility in the court. A dam situation is similar to a mine in that the responsible parties should be the owners. If the owners are responsible for the dams then they will take care of them and page 5, line 9 would not be necessary. REP. O'KEEFE stated that he felt it does not remove the strict liability from the dams located on the federal lands. REP. MEASURE responded that for federal purposes that is correct. It is desirable for the state to hold strict liability also. CHAIR RANEY stated he felt that HB 382 should be in Judiciary. REP. GILBERT stated because he does not understand the liability situation he does not feel comfortable voting on the bill. REP. MEASURE responded that the four lawyers on the Natural Resource committee could figure it out and it would not be necessary to send it to Judiciary. CHAIRMAN RANEY appointed a subcommittee of the four lawyers: REPS. FAGG, MEASURE, HOFFMAN, and TOOLE. with REP. FAGG chair. REP. HOFFMAN withdrew his motion.

EXECUTIVE ACTION ON HB 383

Motion: REP. GILBERT MOVED HB 383 DO PASS.

Discussion: CHAIRMAN RANEY stated this bill is necessary to ensure that wastes are properly managed. REP. KNOX asked why it is necessary to have state regulations more strict than federal ones. CHAIRMAN RANEY responded that some areas are more sensitive than others and need more protection. There are many areas in which the state adopts stronger regulations than the federal government. Air quality is one of these areas. The federal government may not adopt regulations which are as strong as what they say they are going to or which fit individual community needs. The Department should be able to address individual needs and have the flexibility to make stronger regulations. REP. REAM stated that stricter standards can be imposed anyway. Gail Kuntz, staffer, stated that given the language on page 4, it is necessary to say "more restrictive" in

order to do that.

REP. COHEN said that Plum Creek burned the waste oil that spilled in Whitefish Lake in their wood waste burner. He inquired if this type of situation would be addressed in HB 383. CHAIRMAN RANEY responded that the bill wasn't intended for that type of situation. REP. REAM stated EPA has specific sets of regulations for boilers regardless of what the boilers do. He said he interprets the rule making authority that this gives them would allow them to do that even for those furnaces. CHAIRMAN RANEY responded that he did not know if a tepee burner, industrial furnaces or boilers are covered under this law. Roger Thorvilson, DHES, stated the definitions are detailed. Essentially, it has to be either a boiler or a furnace for industrial or manufacturing, not for space heating. The regulations envisioned by the bill are specific handling and emission requirements for that boiler, irrespective of what that boiler normally does. These regulations would set emission requirements and performance standards for that boiler. REP. BROOKE asked if the situation as described by REP. COHEN would be covered under this. Mr. Thorvilson replied no. The device would have the meet the definition of a boiler or industrial furnace.

Vote: Motion for HB 383 DO PASS carried unanimously.

EXECUTIVE ACTION ON HB 414

Motion: REP. COHEN MOVED HB 414 DO PASS.
REP. COHEN moved to adopt amendments. EXHIBIT 8

Discussion: REP. COHEN read the amendments and stated they are in response to concerns expressed by the Department. REP. COHEN summarized the amendments by stating they will allow the Department to respond to a problem, such as a spill, before it creates pollution. It allows for preventive actions, such as installing a berm to prevent a spill from entering a stream. Other amendments are cleanup amendments. REP. WANZENRIED asked if the statement of intent needs to reflect the ability for preventive measures. REP. COHEN stated he thinks it might need to be amended. Ms. Kuntz agreed. She suggested that language to the affect "and activities undertaken by the government to prevent pollution in state waters" be added to lines 21 and 22.

Vote: Motion to adopt amendments carried.

Motion/Vote: REP. WANZENRIED moved to amend statement of intent in a manner suggested by Ms. Kuntz. Motion carried unanimously.

Motion/Vote: REP. COHEN MOVED HB 414 DO PASS AS AMENDED. Motion carried.

Announcements/Discussion:

REP. MEASURE reported that the subcommittee on HB 233 has been

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE 2-6-91

NAME	PRESENT	ABSENT	EXCUSED
REP. MARK O'KEEFE, VICE-CHAIRMAN	/		
REP. BOB GILBERT	/		
REP. BEN COHEN	/		
REP. ORVAL ELLISON	/		
REP. BOB REAM	/		
REP. TOM NELSON	/		
REP. VIVIAN BROOKE	/		
REP. BEVERLY BARNHART	/		
REP. ED DOLEZAL	/		
REP. RUSSELL FAGG	/		
REP. MIKE FOSTER	/		
REP. DAVID HOFFMAN	/		
REP. DICK KNOX	/		
REP. BRUCE MEASURE	/		
REP. JIM SOUTHWORTH	/		
REP. HOWARD TOOLE	/		
REP. DAVE WANZENRIED	/		
REP. BOB RANEY, CHAIRMAN	/		

HOUSE STANDING COMMITTEE REPORT

February 7, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report
that House Bill 383 (first reading copy -- white) do pass.

Signed: _____
Bob Raney, Chairman